

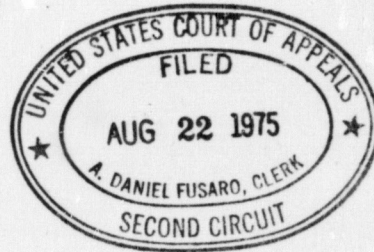
***United States Court of Appeals
for the Second Circuit***



APPENDIX

75-7461

B



Appendix

PAGINATION AS IN ORIGINAL COPY



FORM 7-12 (REV. 4-5-49)

45-490

MADE IN U.S.A.

APPENDIX

DATE	NR.	PROCEEDINGS
06-16-75	(1)	Filed complaint and issued summons.
07-10-75	(2)	Filed def't's affidavit & notice of motion for summary judgment. ret. 7-24-75 (Statement pursuant to rule 9(g) enclosed)
07-10-75	(3)	Filed def't's memorandum of law in support of motion for summary judgment.
09-30-75	(4)	Filed ANSWER by def't's to complaint.
07-3-75	(5)	Filed summons with marshals return, served, Mercury Recording Co. by office Manager on 6-17-75. Ohio Players by D. Psulidas on 6-18-75.
07-25-75	(6)	Filed pltff's Amended complaint.
08-04-75	(7)	Filed OPINION #42905. Motion is accordingly granted and complaint (including pltff's latest filed pleading, entitled "Amended of the Original filed") dismissed. So Ordered. Knapp, J(mn) <i>Judge</i>
08-06-75	(8)	Filed plaintiff's notice of appeal from decision rendered on 8-4-75, dismissing dismissing plaintiff's complaint-Knapp J. m/a on 8-7-75.

A TRUE COPY

RAYMOND M. BURCHARDT
CLERK

A. E. Thompson
Deputy Clerk

United States District Court

FOR THE

Southern District of New York

75 CIV. 2878

CIVIL ACTION FILE NO. _____

Albert Pryor

Plaintiff

v.

MERCURY RECORDING CO.
OHIO PLAYERS

Defendant

SUMMONS

To the above named Defendant :

You are hereby summoned and required to serve upon

ALBERT PRYOR

Pro se
plaintiff's attorney, whose addressP.O. Box 428
NEW YORK, N.Y. 10024

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

Clerk of Court

L.A. DECHER

Deputy Clerk

Date:

JUN 16 1975

[Seal of Court]

UNITED STATES District For the
Southern District of New York

Albert Pryor
v.

MERCURY recording company
Ohio Players

I Suing the Ohio Player & Mercury
recording company for LIBEL & Slander.

Reasons For arriving at this claim
come from the undue social pressure
which start about the same or at the
same time that the Ohio Players came
out with a record (they also have an album)
call Fire, which uses my name and
referr to my name in Slander.

Reason for filing in this court
is that the record is played & heard
on a National Level (radio, television,
Jukebox) and I am resident of New York.

Albert Pryor
HOTEL Endicott
440 Columbus ave
New York, New York 10024

or ALBERT Pryor
Post office Box
New York, New York

- V -

MERCURY recording company
Ohio players

The remedy I seek is to have them
stop using my name in a slander way
thereby stop some of the social pressure
which is effecting Albert Pryor.

The Damages I request in the sum
of 3 million dollars

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Albert Pryor

Plaintiff

- V -

Mercury Recording Co.
and the Ohio Players

Defendants

(ANEX)

75 CIV 2878

Admended of the

original filed

FILED

July 25, 1975

TO: United States District Court
Southern District of New York
Attention: Honorable Whitman Knapp

Sir:

In order that justice can be
served to all the parties concern in
this matter. I feel that the defendants
{Mercury Recording Co. Now known as
{phonogram Inc. and the Ohio players

In their Answer and in their Notice
of motion for Summary Judgment that
they failed to prove that allegations
are wrong and considering that
→ they should now admit the truth
and pay the damages requested

For the complete justice to be
served that the Reasonable fact sheet
of my Name (Albert Pryor) and/or Albert
for reasons and/or reasons unknown
produce from listening to the record
Name "Fire"

That with the Court trailing of
the case that my Good Name and Good
reputation can be preserved and

Remittance
Correct of copy
SOUTHERN COURT

My Good Character, if the Court was
To consider any matter, Not privileged
which is relevant to the Subject Matter
Involved in the pending action, whether
it relates to the claim or defense of
the examining party or to the claim
or defense of any other party, including
the existence, description, nature, custody,
condition and location of facts or
other tangible things and the
Identity and location of persons
having knowledge of relevant
facts. It is not ground for objection
that testimony will be inadmissible
at the trial if testimony sought
appears reasonably calculated to lead
to the discovery of admissible evidence.

I respectfully request that the Court
consider that God and justice can be
served by hearing both side of the
matter and will rule in my favor
(Albert Pryor) which will vindicate
my Good Name and Edward Albert
Pryor the Damage he request
of 3 million dollars.

Albert Pryor

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ALBERT PRYOR,

Plaintiff,

- against -

PHONOGRAM, INC. (sued herein as
MERCURY RECORDING CO.) and OHIO
PLAYERS, INC. (sued herein as OHIO
PLAYERS),

Defendants.



MEMORANDUM AND ORDER

75 Civ. 2878

#42905

KNAPP, D.J.

Defendants have moved pursuant to Rule 56 for summary judgment dismissing plaintiff's pro se complaint sounding in libel and slander. The handwritten complaint, insofar as the Court is able to determine, alleges in substance that a certain musical composition known as "Fire", recorded by Defendant Ohio Players contained in a record album manufactured and distributed by defendant Phonogram, Inc. under its MERCURY label, uses and refers to plaintiff's name "in slander". Nothing more specific than that is alleged in the complaint. At oral argument on the motion, plaintiff explained that, in his opinion and the alleged opinion of certain unnamed acquaintances, his name ("Pryor")

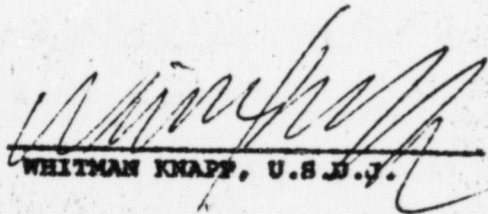
is sung alternatively with the word "Fixe". Presumably, therefore, his claim rests on the phonetic similarity between his name and the word "Fire".

The Court has carefully read the lyrics of the song and listened to the record and finds no support for plaintiff's claim.

The motion is, accordingly, granted and the complaint (including plaintiff's latest filed pleading, entitled "Amended of the Original filed") dismissed.

SO ORDERED.

Dated: New York, New York
July 30, 1975.


WHITMAN KNAPP, U.S.J.

United States District Court
Southern District of New York

ALBERT Pryor
(Appellant)

75 Civ 2878 (W.K.)

Notice of

Appeal of opinion by

The Hon. W. Knapp

92905

-V-
Mercury Recording Co (known now
as Phonogram Recording Co.) and
The Ohio Players
(Appellee)

Court of Appeal:

Sir:

I, Albert Pryor, respectfully
request the Case Docket # 75 Civ 2878 be
reheard in that justice and God may serve.
Reasons: (For this request for appeal are:)

① With all understanding of the informality
of the Court, I feel, that the issue
of the matter of fact was not properly
heard and with that fact and/or facts
I requested an adjournment of the
Motion for Summary Judgment and
enter an amended of the original filed
which needed some correction to
justice to be served in this matter of
issue

② that fact of informality of the Court
does not justified fact of lack of
ability and to have it presented in
the best possible manner to obtain the
truth of the matter of the issue

③ that the court by its own admission
that the Ohio Players have committed
an act of publication and/or the fact
that denied to be present is an admission
of their guilt

④ That with hearing of my complaint
Justice and God can be served
Thereby remedy the Social Injustice
which has been a problem to me.
To prevent the continuation of this problem
I request that you hear the issue

respectfully

Albert Pryor
Albert Pryor

C.C. Mercury Rebuilding Co.

110 West 57th Street

Ohio Players - New York, New York

c/o 110 West 57th Street - New York, New York

Represented by

Schwartz, Halperin, Scribner

285 Madison Ave

New York, New York

UNITED STATES COURT OF APPEALS

SECOND CIRCUIT

TRANSCRIPT INFORMATION

CIVIL APPEAL

To be completed by counsel for appellant in civil appeal from district court within ten days after filing notice of appeal.

COPIES: (1) to Clerk of the Court of Appeals; (2) and (3) to Clerk Reports; (4) Counsel for Appellee
(5) retained by Counsel for Appellant

THIS SECTION TO BE COMPLETE BY COUNSEL FOR APPELLANT

CASE TITLE <i>Prior</i>	DISTRICT <i>Southard</i>	DOCKET NUMBER <i>75 Civ 2878</i>
JUDGE <i>W. Knapp</i>	APPELLANT <i>Albert Prior</i>	
COURT REPORTER <i>Mercury Recording Co. (known as Newer Phonogram Co.) and the Ohio Playboys</i>	COUNSEL FOR APPELLANT	

TRANSCRIPT ORDER

Must be completed

DESCRIPTION OF PROCEEDINGS FOR WHICH TRANSCRIPT IS REQUIRED (INCLUDE DATES)

☒ I am ordering a transcript.☐ I am not ordering a transcript.

Reasons:

☐ Daily copy is available.☐ Other. Attach explanation.*None Available*METHOD OF PAYMENT ☐ FUNDS ☐ CJA VOUCHER (CJA 21)☐ PREPARE TRANSCRIPT OF PRE-TRIAL PROCEEDINGS☐ PREPARE TRANSCRIPT OF TRIAL☐ PREPARE TRANSCRIPT OF OTHER☐ POST-TRIAL PROCEEDINGS☐ PREPARE (Other: Specify)

DELIVER TRANSCRIPT TO: (NAME, ADDRESS, TELEPHONE)

I certify that I have made satisfactory arrangements with the court reporter for payment of the cost of the transcript (FRAP 10(b)). I understand that unless I have already ordered the transcript, I shall order its preparation at the time required by the Civil Appeals Management Plan, F.R.A.P. and the local rules.

COUNSEL'S SIGNATURE

Albert Prior

DATE

8-6-75

COURT REPORTER ACKNOWLEDGEMENT

To be completed by court reporter. Return one copy to clerk, U.S. Court of Appeals.

ESTIMATED COMPLETION DATE

ESTIMATED NUMBER OF PAGES

UNITED STATES COURT OF APPEALS
SECOND CIRCUIT

CIVIL APPEAL PRE-ARGUMENT STATEMENT

(To be filed by appellant with Clerk of Court of Appeals and served on other parties within ten days after filing notice of appeal.)

CASE TITLE (Complete)

Pryor

Mercury Recording Co. (Known now as
Phonogram Recording Co.) and The
Ohio Players

(Attach additional sheets if space is not sufficient)

APPEAL FROM DISTRICT COURT

DISTRICT ▶ U.S. Southern

DISTRICT COURT
DOCKET NUMBER ▶

DATE FILED IN DISTRICT COURT ▶ MO. DAY YEAR
6 16 75

DATE NOTICE OF
APPEAL FILED ▶ 8 6 75

RELATED CASE(S) ▶ NONE

Is this a cross appeal

YES

☐

NO

☒

TELEPHONE

COUNSEL NAME

FOR APPELLANTS: Albert Pryor

ADDRESS

440 Columbus Ave
New York, New York, 10024

P.O. Box 428
New York, New York 10024

FOR APPELLEES:

Schwartz, Halperin, Scribner
285 Madison Ave
New York, New York

(Check One Box Only)

NATURE OF SUIT

CONTRACT	TORTS	ACTIONS UNDER STATUTES			
		CIVIL RIGHTS	FORFEITURE/PENALTY	PROPERTY RIGHTS	
<input type="checkbox"/> INSURANCE	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> VOTING	<input type="checkbox"/> AGRICULTURE	<input type="checkbox"/> COPYRIGHT	<input type="checkbox"/> TRADEMARK
<input type="checkbox"/> MARINE	<input type="checkbox"/> AIRPLANE	<input type="checkbox"/> JOBS	<input type="checkbox"/> FOOD & DRUG	<input type="checkbox"/> PATENT	
<input type="checkbox"/> MILLER ACT	<input checked="" type="checkbox"/> ASSAULT, LIBEL & SLANDER	<input type="checkbox"/> ACCOMMODATIONS	<input type="checkbox"/> LIQUOR LAWS	OTHER STATUTES	
<input type="checkbox"/> NEGOTIABLE INSTRUMENT	<input type="checkbox"/> FEDERAL EMPLOYEE LIABILITY	<input type="checkbox"/> WEAPONS	<input type="checkbox"/> R.R. & TRUCK	<input type="checkbox"/> STATE REAPPORTIONMENT	<input type="checkbox"/> AGRICULTURAL ACTS
<input type="checkbox"/> RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGEMENT	<input type="checkbox"/> MARINE	<input type="checkbox"/> OTHER CIVIL RIGHTS	<input type="checkbox"/> AIR LINE REGS.	<input type="checkbox"/> ANTI-TRUST	<input type="checkbox"/> ECONOMIC STABILIZATION ACT
<input type="checkbox"/> OTHER CONTRACT	<input type="checkbox"/> MOTOR VEHICLE	<input type="checkbox"/> PRISONER PETITIONS	<input type="checkbox"/> OTHER	<input type="checkbox"/> BANKRUPTCY TRUSTEE	<input type="checkbox"/> ENVIRONMENTAL MATTERS
	<input type="checkbox"/> OTHER PERSONAL INJURY	<input type="checkbox"/> VACATE SENTENCE (2296)	<input type="checkbox"/> LABOR	<input type="checkbox"/> BANKS AND BANKING	<input type="checkbox"/> CONSTITUTIONALITY OF STATE STATUTES
REAL PROPERTY	PERSONAL PROPERTY	<input type="checkbox"/> PAROLE BRO. REVIEW	<input type="checkbox"/> FAIR LABOR STANDARDS	<input type="checkbox"/> COMMERCE ICC RATES, ETC.	<input type="checkbox"/> HARA TITLE III
<input type="checkbox"/> CONDEMNATION	<input type="checkbox"/> FRAUD	<input type="checkbox"/> LABOR/UNION RELATIONS	<input type="checkbox"/> LABOR/UNION REPORTING & DISCLOSURE ACT	<input type="checkbox"/> DEPORTATION	<input type="checkbox"/> OTHER STATUTORY ACTIONS
<input type="checkbox"/> FORECLOSURE	<input type="checkbox"/> OTHER PERSONAL PROPERTY DAMAGE	<input type="checkbox"/> HABEAS CORPUS	<input type="checkbox"/> RAILWAY LABOR ACT	<input type="checkbox"/> SELECTIVE SERVICE	
<input type="checkbox"/> RENT LEASE & EJECTMENT		<input type="checkbox"/> MANDAMUS	<input type="checkbox"/> OTHER LABOR LITIGATION	<input type="checkbox"/> SECURITIES COMMODITIES EXCHANGE	
<input type="checkbox"/> TORTS TO LAND		<input type="checkbox"/> CIVIL RIGHTS		<input type="checkbox"/> SOCIAL SECURITY	
<input type="checkbox"/> ALL OTHER REAL PROPERTY				<input type="checkbox"/> TAX SUITS	

METHOD OF DISTRICT COURT DISPOSITION

Judgment before trial:	Prisoner petition:
Summary Judgment <input checked="" type="checkbox"/>	Granted <input type="checkbox"/>
Dismissal <input type="checkbox"/>	Denied <input type="checkbox"/>
Other <input type="checkbox"/>	
Judgment during or after trial:	Injunction:
Court trial <input type="checkbox"/>	Granted <input type="checkbox"/>
Jury trial <input type="checkbox"/>	Denied <input type="checkbox"/>
During trial <input type="checkbox"/>	
Appeal from order:	Damages:
Preliminary injunction <input type="checkbox"/>	Granted <input type="checkbox"/>
Class action <input type="checkbox"/>	Amount \$
Amend answer <input type="checkbox"/>	Denied <input type="checkbox"/>
Enforce settlement <input type="checkbox"/>	Other relief (specify)
Counsel fees <input type="checkbox"/>	
Stay <input type="checkbox"/>	
Other <input type="checkbox"/>	

APPROXIMATE SIZE OF RECORD ▶

NUMBER OF EXHIBITS ▶

HAS TRANSCRIPT BEEN MADE?

YES

NO

BRIEF DESCRIPTION OF NATURE OF CASE AND RESULT BELOW:

It was a torts of Personal Injury of Libel & Slander

ISSUES PROPOSED TO BE RAISED ON APPEAL:

SEE Attached of Notice of Appeal
for ISSUE Raised on Appeal

I, Attorney for the Appellant, hereby certify that satisfactory arrangements have been made with the court reporter for payment of the cost of the transcript (FRAP 10 (b)). (Check one box)

☐ (1) have already ordered the transcript to be prepared OR

☐ (2) will order it to be prepared at the time required by the Staff Counsel in the implementation of the Civil Appeals Management Plan.

COUNSEL'S SIGNATURE

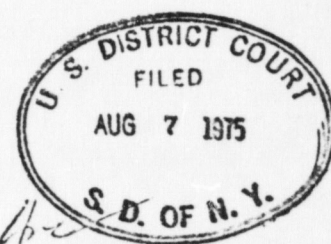
Albert Pryor

DATE

8/1/75

(9)

Knapp, J.



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
ALBERT PRYOR
Plaintiff : 75 Civil 2878 (WK)
-against- : JUDGMENT
PHONOGRAM, INC. (sued herein as
MERCURY RECORDING CO.) and OHIO :
PLAYERS, INC. (sued herein as :
OHIO PLAYERS) :
Defendants :
----- X

Defendants having moved the Court for summary judgment, pursuant to Rule 56, of the Federal Rules of Civil Procedure, and the said motion having come on to be heard before the Honorable Whitman Knapp, United States District Judge, and the Court thereafter on August 4, 1975, having handed down its memorandum opinion granting the said motion, it is,

ORDERED, ADJUDGED and DECREED: That defendants' PHONOGRAM, INC., (sued herein as MERCURY RECORDING CO.), and OHIO PLAYERS, INC., (sued herein as OHIO PLAYERS), have judgment against plaintiff ALBERT PRYOR, dismissing the complaint, including plaintiff's latest filed pleading entitled "Amended of the Original filed" is hereby dismissed.

Dated: New York, N.Y.
August 7, 1975

Raymond F. Berglund
Clerk